

REMARKS

Independent claims 1, 11, and 12 are amended above to more specifically point out that the on-line shopper has placed an order. Support is found in Applicant's Specification page 1, line 13, page 5, line 2, and page 6, lines 4 - 6. No new matter is entered.

Claims 1 - 3, 9, 11 and 12 stand rejected under 35 U.S.C. 102(e) as being anticipated by Hoar (US 2002/0147651 A1). Applicant respectfully disagrees with this rejection based on the following argument and the amendments made above.

Applicant's invention as defined by independent claims 1, 11, and 12 relates to and requires an on-line shopper placing an order to a combined on-line and physical retail store. The problem addressed as noted in Applicant's Specification, page 2, line 14, is that there may be in-person shoppers in the physical store who have removed the same item from stock and placed it in his or her (physical) shopping cart. The store's computer which receives the on-line order does not yet know, until the in-person shopper checks out, that the item is unavailable, and will accept the on-line order.

Hoar in contrast addresses the case of a consumer who does on-line research and then later physically visits a store to purchase an item based on his earlier on-line product research. See paragraph 3. Due to the elapsed time before the customer visits the store--defined as shop time--a particular item may no longer be in stock at the store. See paragraphs 53 - 55. Hoar addresses this problem by calculating a probability and expectation that the number of units the customer wishes to

purchase will still be available after the elapsed time.

There is no elapsed time in Applicant's invention as claimed in independent claims 1, 11, and 13. The on-line order is received at a web server and the server determines whether to take a corrective action. As noted in Applicant's Specification, page 10, lines 9 - 18, corrective actions may include, for example, prompting to select an alternative item.

All of the methods described by Hoar for calculating availability of an item are based on this elapsed shop time and are therefore incapable of determining whether to immediately accept Applicant's on-line order. Specifically, Hoar does not decide any manner of performing the step of: adjusting the approximate quantity, responsive to a quantity held estimate of a number of units of the item held by in-person shoppers who physically removed said units of the item from inventory prior to check out, as required by Applicant's independent claims 1, 11, and 12.

Claims 1, 11, and 12 are therefore allowable over Hoar and such allowance is respectfully requested. Claims 2, 3, and 9 are dependent directly on allowable claim 1 and are therefore also allowable.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as unpatentable over Hoar. However, claims 4 and 5 are also dependent directly on allowable claim 1 and are therefore also allowable.

The Application is deemed in condition for allowance and such action by the Examiner is urged. Should differences remain,

however, which do not place one/more of the remaining claims in condition for allowance, the Examiner is requested to phone the undersigned at the number provided below for the purpose of providing constructive assistance and suggestions in accordance with M.P.E.P. Sections 707, 707.07(d) and 707.07(j) in order that allowable claims can be presented, thereby placing the application in condition for allowance without further proceedings being necessary.

Respectfully submitted,

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